

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MASSACHUSETTS

JOHANZ X. SANTOS, ppa, DENISE COLON,)	C.A. No.: 03- 12210 MLW
DENISE COLON, Individually, JESUS SANTOS,)	
)	
Plaintiffs,)	
)	
v.)	
)	
BOB'S DISCOUNT FURNITURE; REGENT)	
HOME DELIVERY; AGNILIZ ACOSTAS;)	
RAUL SANTOS,)	
)	
Defendants.)	
_____)	

**PLAINTIFF'S ASSENTED TO MOTION TO APPROVE SETTLEMENT OF
MINOR'S CLAIMS PURSUANT TO M.G.L. c. 231§140c^{1/2}**

Now comes the minor Plaintiff through his mother and next friend Denise Colon and requests that this Court approve the settlement of the minor Plaintiff's claims against the Defendants Bob's Discount Furniture, Raul Santos and Agniliz Acostas.

On March 30, 2002 the minor Plaintiff, age 7, while playing baseball, ran into the street to chase a ball and collided with a vehicle driven by Raul Santos and owned by Agniliz Acostas. At the time there was a Bob's Discount delivery truck parked in a no parking zone on Federal Street. The minor Plaintiff ran in front of the truck and collided with the side of the car driven by Raul Santos.

The minor Plaintiff sustained a closed head injury (epidural hematoma) requiring surgery, was hospitalized and discharged on April 4, 2002. He suffered some post accident seizures and post traumatic stress. He received treatment from various medical providers since then and his condition has stabilized. He is currently attending school. There is no anticipated future surgery. The medical expenses incurred were \$72, 061.97.

Suit was filed by the minor Plaintiff through his mother and next friend Denise Colon. The Defendant Bob's Discount filed a counterclaim against the minor's parents for contribution alleging that the minor's parents allowed him to play unsupervised near

the street. Additionally, there was a pending motion for summary judgment filed by the Defendant Bob's Discount alleging that there was no basis for a negligence claim against Bob's Discount since the truck was parked at the time of the Plaintiff's accident.

The Plaintiff conducted extensive discovery including interrogatories, document requests, various depositions of the Defendants and witnesses. Witness statements were obtained by private investigators on behalf of the Plaintiffs. The Plaintiffs also retained an accident reconstruction specialist to create an accident reconstruction analysis of the Plaintiff's accident. Medical experts were retained and expert disclosures filed.

The adult Plaintiffs filed claims for loss of their son's society. The minor Plaintiff's claims are for pain and suffering, physical injuries and medical expenses. The Plaintiffs were able to settle their claims against the Defendants Santos and Acostas for the policy limits of \$20,000.00. The parties then agreed to participate in mediation. As a result of the mediation the remaining parties agreed to settle all claims against Bob's Discount for \$440,000.00. All releases have been properly executed (See copy of releases attached as Exhibit A).

The total settlement value is \$460,000.00. Ms. Colon has allocated \$25,000.00 from the total settlement funds in settlement of her claims. Mr. Jesus Santos' claims will be dismissed with prejudice without payment of any monies. The remaining total of \$435,000.00 has been allocated to their son.

According to the fee agreement between counsel and the Plaintiffs, distribution of the funds will be made as follows:

MINOR'S SETTLEMENT

Total Settlement:	\$435,000.00
Legal Fees – 40%:	\$174,000.00
Expenses:	\$ 12,606.78
Net to Minor =	<u>\$248,393.22</u> (to be deposited in trust account)

The Plaintiffs retained the services of any attorney experienced in the area of trust accounts for minors. Trust documents creating a trust have been prepared and properly executed naming Denise Colon, the natural mother of the minor Plaintiff, as the trustee and the minor as the sole beneficiary of "The Johanz X. Santos Trust" (See copy of trust

attached as Exhibit B). The trust funds upon distribution will be immediately deposited in the trust account and managed in accordance with the requirements of said trust. It is in the minor's best interest that the settlement be effectuated for this amount. In light of the evidence discovered there was a possibility that this entire case could be lost or ultimately that a finding of contributory negligence could significantly reduce or even eliminate any award. Wherefore, the Plaintiffs request the Court approve this settlement.

The Plaintiff
By Her Attorneys,

/s/David P. Angueira

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The Defendant
By It's Attorney,

/s/Richard F. Faille

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Dated: June 9, 2005

CERTIFICATE OF SERVICE

I, David P. Angueira, do hereby certify that I have served a copy of the within Plaintiff's Assented to Motion to Approve Settlement of Minor's Claims Pursuant to M.G.L. c. 231§140c½ by means specified herein, to all counsel, to wit:

Via Electronic Mail:
Richard F. Faille, Esq.
Faille, Birrell & Daniels
22nd Floor
1414 Main Street
Springfield, MA 01144

/s/David P. Angueira

David P. Angueira, BBO# 019610

Dated: June 9, 2005